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AP/3724



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: Henry H. Jenkins

Examiner: C. Dexter  
Art Unit: 3724

Serial No: 09/580,411

9213 Chillicothe Rd.  
Kirtland, OH 44094  
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TECHNOLOGY CENTER R3700

For: COMPENSATING BLISTER DIE CUTTER APPARATUS

Assistant Commissioner for Patents  
Washington, D.C. 20231

Ex-Att'l Rev 173849590US

APPLICANT'S REPLY BRIEF

Dear Sir:

This is in response to the Examiner's Answer filed in the appeal of the above-referred to application.

As a result of the appeal brief filed by applicant the examiner has abandoned the rejection of Claims 2 and 3 but persists in the rejection of Claim 1. The rejection of Claim 1 involves the recitation in the claim of the lost motion connection which connects the support member to the base member which permits relative lateral movement of each die cutter unit relative to the base member and relative to each other through a range of 360 degrees.

The examiner has rejected Claim 1 as anticipated by the reference Carll. The examiner maintains "that Carll discloses every structural limitation of the claimed

invention “(See page 4 of the examiner’s answer). The problem with the examiner’s anticipation rejection is that he must substantially revise and rearrange the Carll reference before he can make his rejection and after doing this it no longer is an anticipation.

The following are interesting portions of the examiner’s answer:

“Carll discloses a lost motion connection (although not named as such) which is the same structure as that of the claimed invention.” (See page 5)

“Carll discloses that the die cutting units are locked in position during use, while the die cutting units of the present invention are free to move during use.”(Page 6)

“For example, by simply not tightening the screws 32, Carll is exactly the same as the claimed invention. No modification of the structure disclosed by Carll is required. This loosened state is clearly present in Carll during adjustments, but also could be present during use of the device if a user chose to do so.”(Page6)

The present patent specification and applicant’s appeal brief have described the claimed invention with particularity and more specifically the “lost motion connection” found in Claim 1 under discussion here. The meaning of the phrase is not met by the disclosure and teachings of Carll. The meaning of the phrase is to describe a structure which in operation permits relative movement between the die cutter units so as to

accommodate uneven shrinkage between blisters formed on a plastic sheet.

The teachings of Carll are exactly opposite this. Carll teaches firmly fixing his die cutter units in place by means of his screws 32 so that there can be no movement between the units. Even if Carll were to leave his units loose there is no teaching that this would work and there is no discussion in Carll that he recognized a problem such as that solved in applicant's invention.

There in fact is no lost motion connection disclosed in Carll except by the inventive mental maneuvers of the examiner used in his imaginative rejection. The fact of the matter is that Carll does not teach the shifting of die cutter units relative to each other to accommodate for uneven shrinkage in a plastic sheet. As pointed out by the examiner the units of Carll are locked in position during use. The Carll reference does accommodate for the adjustment of the die cutters relative to each other prior to the die unit being placed in operative condition. Once the Carll reference is ready for operative use the die units are firmly screwed in place and cannot move for any accommodations.

For these reasons the anticipation rejection of Claim 1 based on Carll should be reversed and the claim should be allowed. Favorable consideration in this respect is respectfully requested. Respectfully submitted,

WOODLING, KROST and RUST



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Filed in triplicate